

Application no. 09/516,859
Amdt. dated April 1, 2004
Reply to Office Action of June 18, 2004

REMARKS / ARGUMENT

A. INTRODUCTION

In the office action dated April 1, 2004:

claims 13-15, 17-18 were allowed;

claims 4 and 10 were rejected under 35 U.S.C. § 112 as being dependent on canceled claims; and

claims 1, 2, 4, 7, 8, 10 were under 35 U.S.C. § 103 based on IEEE standard 802.1Q in view of U.S. patent no. 6,181,699 to Crinion *et al.* (hereafter "Crinion").

B. REJECTION UNDER 35 U.S.C. § 112

In response to the indefiniteness rejection, Applicant has amended claims 4 and 10 to depending from pending claims 1 and 8, respectively.

C. REJECTION UNDER 35 U.S.C. § 103(a)

Applicant respectfully asserts that claims 1, 2, 4, 7, 8, 10 of the present application are allowable because there is no motivation to combine the art cited by the Examiner and the combined art fails to teach the invention claimed. Thus, Applicant respectfully asserts that Examiner has not established a *prima facie* case of obviousness.

In the office action, Examiner justifies the combination of IEEE standard 802.1Q and Crinion on grounds that:

"... it would be obvious to one skilled in art, at the time of the invention to include the search circuit 130 for determining virtual trunk value (tagging information) from a VLAN Identifier as taught by Crinion in the IEEE standard 802.1Q in order to assign more information to a frame, other than port information, such as source address, destination address, protocol information, and priority level." (page 3, line 18, through page 4, line 1).

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Neither the virtual trunk value (used in claim 1) nor the tagging information (as used in Crinion), however, are determined from the VLAN identifier, as stated by the Examiner. Instead, the VLAN identifier and priority are part of the VLAN tag retrieved from the content addressable memory (CAM) after searching select fields extracted from the inbound frame. The select fields are referred to as "lookup data" in Crinion and consist of one or more of the following: destination address, source address, and TYPE field (col. 4, lines 5-12). "Tag data" associated with the lookup data is then retrieved when the lookup data is matched in the CAM (col. 3, lines 9-13). The tag data includes a VLAN tag (col. 3, lines 13-14), which further includes a VLAN ID and PRIORITY flag (col. 4, lines 14-18). The lookup data and tag data associated with the lookup data are collectively referred to "tagging information" (col. 1, lines 54-56).

As explained above, Crinion does not use the VLAN to determine either a virtual trunk value or second priority, as asserted by Examiner. Since Examiner's stated motivation to combine IEEE standard 802.1Q and Crinion is in error, the motivation is insufficient to establish a *prima facie* case of obviousness.

The Applicant respectfully requests the Examiner take note from the explanation above that Crinion, in combination with IEEE standard 802.1Q, fails to establish every element of the claimed invention. Claim 1 recites in relevant part: "determining a virtual trunk value based on ... a VLAN identifier" and "determining a second priority value based on ... the virtual trunk value." While Crinion teaches that the second priority (tag data) is determined based on the destination address, source address, and TYPE field (lookup data), Crinion fails to disclose or suggest determining the second priority based on the VLAN ID, as is claimed in claims 1 and 8. Claims 1 and 8 as well as the associated dependent claims 2, 4, 7, 10 are therefore distinguishable from the cited art and allowable.

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D. CONCLUSION

For all the forgoing reasons, Applicant submits that the present invention is patently distinguishable from IEEE standard 802.1Q and Crinion either alone or in combination. Accordingly, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Pursuant to 35 U.S.C. 132 and 37 CFR 1.121, Applicant has exercised care to avoid the introduction of new matter. Should there be any fees for this action, your office is authorized to draw from the firm deposit account number 02-3979. Should you have any questions, or identify any problem, I would appreciate a telephone call so that this matter may be resolved promptly.

Respectfully submitted,

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